



City of Seattle

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Gregory J. Nickels, Mayor

**Department of Design, Construction and Land Use**

Diane M. Sugimura, Acting Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Number:** 2203298

**Applicant Name:** Randy Spaan for Kemp Hiatt

**Address of Proposal:** 8415 Inverness Drive NE

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to short subdivide one parcel of land into two unit lot parcels of land in a mapped Environmentally Critical Area containing steep slopes and a wetland. Proposed parcel areas are: Lot A) 8,658 square feet; Lot B) 15,638 square feet.

An administrative conditional use decision has been published to allow recovery of development credit and clustering of two houses on one lot (DCLU Project No. 2007486, decision published May 24, 2001). A SEPA review to allow construction of more than one dwelling unit on the same site in a critical area was also done as part of Project No. 2007486, and a SEPA Determination of No Significant Impact (DNS) was issued on May 24, 2001. The potential impacts from this optional unit lot subdivision were considered in the SEPA review for Project No. 2007486. The decision in Project No. 2007486 was appealed to the City's Office of Hearing Examiner, but a settlement agreement between the City and the appellant was agreed upon, effective September 12, 2001, and thus no appeal hearing occurred. Issuance of the conditional use permit has not yet occurred, but is pending subject to compliance with certain conditions of approval to be satisfied prior to issuance of the permit and subject to the outcome of the decision on this unit lot short subdivision.

The following approval is required:

Short Subdivision - to divide one parcel of land into two unit lot parcels.  
(Seattle Municipal Code Chapter 23.24)

### **SEPA DETERMINATION:**

SEPA review was performed under DCLU Project Number 2007486. A Determination of No Significant Impact (DNS) was issued on May 24, 2001.

### **BACKGROUND DATA**

#### **Site Description**

The subject property is a vacant lot zoned SF 7200: Single-Family Residential, with a minimum lot size of 7200 square feet. The property is described as Parcel G of City of Seattle Short Subdivision No. 8600546. Parcel G is located on the east bank of a north-draining ravine in the Inverness Park area of northeast Seattle. The site lies between Inverness Dr. NE, an unimproved 60-foot-wide street right of way abutting to the east at the upper end of the property, Paisley Place NE, a privately developed access easement at the base of the property, and the Sand Point Country Club property abutting to the south. Parcel G has a 173-foot easterly margin on unimproved Inverness Dr. NE and a 142-foot southerly margin bordering on the Sand Point Country Club property. The northeast margin is 60 feet, and the northwest and westerly margins are 154 feet and 107 feet respectively. Lot G has a total area of 24,296 sq. ft.

The westerly 40 to 50 feet of the site, about 6000 square feet, is relatively level, but 5,008 square feet of this westerly area, or about 83% of it, is a wetland. The remaining easterly 90 feet of Lot G, comprising about 18,296 square feet, slopes very steeply up to Inverness Dr. NE (a vertical rise of 63 feet in 90 feet of horizontal distance, or an average of 70% slope). The topographic relief is up to 75 feet. Approximately 17,403 square feet, or 71.6% of the entire lot, is within a steep slope critical area, due to the presence of slopes of 40% average slope or greater. There are two small areas less than 40% slope, totaling 891 square feet, at the top of the slope adjacent to the Inverness Drive NE right-of-way. If the areas of steep slope and wetlands are added together, about 22,411 square feet of the total site area of 24,296 square feet, or 92% of all of Lot G, is within an environmentally critical area due to the presence of wetland or steep slope areas. According to the Geographic Information Service (GIS) land use maps maintained by DCLU and to previously approved building plans for Lot G, the site is also entirely within a landslide-prone area. Almost all of the 50-foot-wide wetland buffer that would be required under SMC Section 25.09.160B (except for an area of about 275 square feet due north of the wetland boundary) extends into the steep slope area.

#### **Area Development**

The zoning of the surrounding properties is SF 7200. Development in the vicinity consists primarily of single-family residences, except for the Sand Point Country Club property to the south. Platting in the vicinity is irregular and lot sizes and shapes vary.

Lot sizes range from 7,884 square feet to 16,757 square feet and many of the lots include steep slopes and potential slide areas.

### Proposal Description

Master Use Permit to short subdivide one parcel of land into two unit lot parcels of land in a steep slope and wetland Environmentally Critical Area. Proposed parcel areas are: Lot A) 8,658 square feet; Lot B) 15,638 square feet.

An administrative conditional use decision has been published to allow recovery of development credit and clustering of two houses on one lot (DCLU Project No. 2007486, decision published May 24, 2001). Issuance of the conditional use permit is pending subject to compliance with conditions of approval to be satisfied prior to issuance of the permit and subject to the outcome of the decision on this unit lot short subdivision.

While the administrative conditional use approval authorizes a development site of sufficient area for two residences, while limiting disturbance of the steep slope area to 30% of the total area of 40% steep slope or greater in compliance with SMC Section 25.09.180 A 3, existing Lot G has insufficient non-critical area to qualify for a traditional short subdivision. Section 25.09.240 D states that critical areas and their required buffer areas receive no development credit for use in calculating the number of lots permitted. SMC Section 25.09.260, however, provides a process for DCLU to authorize the recovery of development credit in a single-family zone through an administrative conditional use review. The Director may approve, condition, or deny an application based upon a determination of whether the proposed recovery of development credit on the site meets the applicable criteria. Section 25.09.260 also allows clustering of more than one principal structure on a single site. An ECA Conditional Use decision is a Type II decision, subject to the provisions of SMC Chapter 23.76, and is appealable to the City Hearing Examiner. The applicant therefore applied for the conditional use to recover development credit and to cluster two houses on one lot, and this application was conditionally granted by DCLU in Project No. 2007486.

Although a standard short subdivision process is not available for the subject property, DCLU has determined that a unit lot subdivision may be applied for and approved for sites that do not meet the standards of Section 25.09.240 D but qualify for approval of a conditional use permit to recover development credit. In this case, the applicant has demonstrated that two houses can be constructed at the top of the steep slope area of the property and within the standards set by Section 25.09.180 A 3 limiting disturbance of steep slope areas on a site to no more than 30% of the steep slope area. In these circumstances, a unit lot subdivision (SMC 23.24.045) may be applied for, which allows the subject site, with two single family residences, to be subdivided into two individual unit lots but requires the development *as a whole* to meet applicable development standards. Those include both the standards in the Land Use Code applicable to single family development in the SF-7200 zone, and all applicable standards of the ECA Ordinance. However, the ECA Ordinance standards for short subdivisions, referenced above, are *not* applicable to unit subdivisions because the development will be regulated as a single site, rather than as two individual sites.

### Public Comments

Three comment letters expressing opposition to the proposed unit lot subdivision were received from attorney Roger Leed on behalf of a group of neighbors, the Paisley Place Homeowners Association. These neighbors reside at the base of the steep slope area occupied by Lot G. Two other letters were received from neighbors on the uphill side of the lot along Inverness Drive Northeast. These neighbors also expressed concern about the development proposal.

### ANALYSIS - SHORT SUBDIVISION

Pursuant to SMC 23.24.040, no unit lot subdivision shall be approved unless all of the following facts and conditions are found to exist. The findings which follow are based upon information provided by the applicant; review of access, drainage and zoning within the Department of Design, Construction and Land Use (DCLU); review from Seattle Public Utilities, Seattle Fire Department and Seattle City Light; and, review by the Land Use Planner.

*1. Conformance to the applicable Land Use Code provisions;*

The existing parent lot subject to this unit lot subdivision conforms to all development standards of the SF-7200 zone. The parent lot configuration provides adequate buildable area to meet applicable lot area standards, yard standards, lot coverage requirements, and other land use code development standards. The unit lots proposed by this subdivision conform to the standards for unit lot subdivisions (SMC 23.24.045) and other code provisions applicable to unit lot subdivisions. Any new development must conform to land use code requirements at the time of application.

*2. Adequacy of access for vehicles, utilities and fire protection, as provided in Section 23.53.005;*

Each of the proposed unit lots will have adequate vehicle, utility and fire protection access to Inverness Drive Northeast. Unit Lot A has 83 feet of street frontage and Unit Lot B has 70 feet of street frontage. The Seattle Fire Department has reviewed and approved this proposal for adequacy of emergency vehicle access.

*3. Adequacy of drainage, water supply, and sanitary sewage disposal;*

Currently there is no sidesewer service to the proposed unit lot short plat. There is a sewer stub to the proposed unit lot short plat from an 8-inch public sanitary sewer located in Paisley Place Northeast. There is a 24-inch public storm drain located in an easement paralleling the westerly property line that drains to a Designated Receiving Water. For informational purposes, it will be necessary to contact the Street Use Section, 5<sup>th</sup> Floor Municipal Building, for a sidesewer permit. Plan review requirements will be made as part of the building permit application. If the project is greater than 5000 square feet of new or replaced impervious surface, a comprehensive

drainage control plan, prepared in accordance with SMC Sections 22.802.015 D and 22.802.020, will be required.

Seattle Public Utilities reviewed the short subdivision application and approved Water Availability Certificate No. 02-0561 on June 19, 2002. All conditions on the certificate must be met prior to receiving water service.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed subdivision is consistent with relevant SF-7200 zone land use policies and meets the minimum provisions of the Seattle Land Use Code. As a unit lot subdivision, it is also consistent with relevant Environmentally Critical Areas policies and meets the minimum provisions of the Regulations for Environmentally Critical Areas. The proposal meets all applicable criteria for approval of a unit lot short plat as discussed in this analysis and decision. The public use and interests are served by permitting the proposed division of land.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

The proposal site contains mapped Steep Slope and unmapped wetland and wetland buffer Environmentally Critical Areas as defined in Seattle Municipal Code Chapter 25.09. The applicant received an administrative conditional use decision to allow recovery of development credit and clustering of two houses on one lot under DCLU Project No. 2007486. With the conditions imposed by the decision in Project No. 2007486, the proposed unit lot subdivision conforms to the provisions of Section 25.09.240. The environmentally critical areas general and submittal standards, as well as the specific standards for steep slopes, wetlands, wetland buffers, and other related development standards, as well as the specific conditions imposed by the administrative conditional use approval to recover development credit, are still applicable. This shall be noted on the final plat.

6. *Is designed to maximize the retention of existing trees;*

All proposed development is within a 31.41-foot-wide area adjacent to Inverness Drive Northeast on the uphill side of the property away from the wetland. By concentrating the proposed development in the area adjacent to Inverness Drive Northeast at the top of the steep slope area, tree removal will be minimized and most of the existing stands of trees on the site will be preserved. Only one cedar is proposed to be removed. This limited amount of tree and vegetation removal is reasonable, because the bulk of the site in the nondisturbance areas will retain the existing vegetation and trees, and because the disturbed areas of the slope not covered by impervious surfaces are to be revegetated with appropriate ground cover. The revegetation will include replacement of the trees to be removed, as a condition of the administrative conditional use approval in Project No. 2007486. Further, maintenance of the existing vegetation and trees in the non-disturbed ECA areas on site is required. The tree requirements of SMC 23.44.008 require trees for new development in SF-7200 zones. The nondisturbance area, including the location of permanent ECA markers, shall be shown on the final plat.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

Section 23.24.045 of the Seattle Municipal Code provides that under certain circumstances some types of parcels may be created that do not individually meet the zoning requirements for lot size, yards, or lot coverage, or the requirements of Section 25.09.240 for a standard short subdivision within an environmentally critical area. These are called unit lot subdivisions and may be permitted as long as the development as a whole meets development standards. However, as a result of this subdivision, development on the individual lots may be nonconforming. To assure that future owners have constructive notice that additional development may be limited due to nonconformities, the following statement shall be required to be included as a note on the final short subdivision: "The unit lots shown on this site are not separate buildable lots. Additional development on any individual unit lot in this subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code, Chapter 23 of the Seattle Municipal Code."

#### **DECISION - SHORT SUBDIVISION**

The proposed Short Subdivision is **CONDITIONALLY GRANTED**.

#### **CONDITIONS - SHORT SUBDIVISION**

The owner(s) and responsible party(s) shall:

##### **Prior to Recording:**

1. Provide final recording forms and fees. Have the final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel or tract created by the short subdivision shall be surveyed in the field and all property corners set in conformance with appropriate state statute. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown, as well as all structures and distances from them to the proposed property lines. All existing structures, principal and accessory, shall be shown on the face of the plat and their distances to the proposed property lines dimensioned. A licensed surveyor shall stamp the short plat drawings.
2. Insert the following on the face of the plat:  
"This site contains Environmentally Critical Areas (ECAs) as defined in SMC 25.09. The steep slope development standards of SMC Section 25.09.180 and specific

conditions of DCLU Project No. 2007486, as well as the ECA General, Submittal, steep slope, wetland, wetland buffer, and other related development standards of Chapter 25.09 of the Seattle Municipal Code still apply to development on the site.”

3. Insert the following on the face of the plat: “The unit lots shown on this site are not separate buildable lots. Additional development on any individual unit lot in this subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code, Chapter 23 of the Seattle Municipal Code, and the Seattle Regulations for Environmentally Critical Areas, SMC Chapter 25.09.”
4. The face of the plat shall show the location of the ECA nondisturbance area and the location of permanent ECA markers delineating the approved nondisturbance area.

In addition to the specific conditions of approval for the unit lot subdivision listed above, the following conditions were imposed as part of the previously approved application for administrative conditional use to recover development credit for the subject property (DCLU Project No. 2007486). These conditions are listed below for informational purposes. Compliance with these conditions, including conditions as more specifically set forth in the settlement agreement between the City of Seattle and the property owner dated September 12, 2001, continues to be required prior to issuance of a Master Use Permit or building permits for the subject property. The owner and/or responsible party shall provide the following:

Conditions of Approval Prior to Issuance of a Master Use Permit

1. A note shall be added to the site plan stating that the proposed side sewer is to be surface mounted, using a high density polyethylene pipe or other pipe as approved by the City.
2. A landscape plan shall be submitted, showing proposals for revegetation of disturbed areas, including types of plants and other requirements as specified in DCLU Director’s Rule 13-92, and including replacement of the removed trees. The plan shall be subject to review and approval by DCLU.
3. A wetland enhancement plan shall be provided, including proposals for planting of appropriate wetland vegetation.

Conditions of Approval Prior to Issuance of Any Construction Permit (Non-appealable ECA conditions)

1. Submit for approval by DCLU a drainage control plan prepared by a licensed civil engineer meeting the requirements of the City’s Stormwater, Grading and Drainage Control Code. The drainage plan shall include a drainage plan for enhancement of the wetland using driven well points and designed by a licensed civil engineer. A note shall be added to the plan stating that installation of the driven well points is to be performed with hand tools.

2. Show on the site plan the area in square feet of soil to be removed from the site and from the adjacent Inverness Drive Northeast right-of-way;
3. Show on the site plan and construct a permanent non-disturbance fence around the wetland and wetland buffer area accessible from Paisley Place Northeast;
4. Show on the site plan complete calculations for development coverage, impervious surface area, and construction activity areas, noting areas and percentages of site;
5. Show on the site plan location of grading activities, including final grade contours, and drainage control facilities;
6. Show on the site plan location of existing utilities and proposed methods/locations of connection(s) to these services as they relate to the ECAs;
7. Show on the site plan the location of permanent ECA markers;
8. Provide an erosion and sediment control plan, employing Best Management Practices, to minimize erosion on and off site. The plan shall be reviewed and approved by DCLU.
9. Submit a sanitary sewer plan for approval by DCLU's Land Use Review section.
10. Building plans must demonstrate that there will be no direct access to the steep slope area from the houses.
11. Record a standard DCLU Environmentally Critical Areas Covenant as approved by DCLU. The covenant shall show the location of permanent ECA markers and provide for their maintenance by the property owners or other responsible parties. The covenant shall also show the location of the permanent non-disturbance fence around the wetland and wetland buffer area and provide for its maintenance by the property owner(s) or other responsible parties.

Signature: \_\_\_\_\_ (signature on file) Date: February 20, 2003

William K. Mills, Land Use Planner  
Department of Design, Construction and Land Use  
Land Use Services